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43168 7590 03/09/2009 MARCIA L. DOUBET LAW FIRM PO BOX 422859 KISSIMMEE, FL 34742				
EXAMINER JEAN GILLES, JUDE				
ART UNIT 2443		PAPER NUMBER		
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JAMES C. FLETCHER, DAVID B. LINDQUIST,  
MICHAEL C. WANDERSKI, and AJAMU A. WESLEY

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Appeal 2008-2290  
Application 10/047,811  
Technology Center 2100

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Decided:<sup>1</sup> March 5, 2009

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Before JAMES D. THOMAS, LANCE LEONARD BARRY, and  
JEAN R. HOMERE, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

## STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 through 5, and 7 through 20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

### *Invention*

The disclosed invention relates to a computer software for providing or otherwise “provisioning” software resources used with aggregated web services in a distributed computing environment. (Spec., Abstract, 39).

### *Representative Claim*

1. A computer-implemented method of provisioning an aggregated service in a computing network, comprising steps of:
  - obtaining credentials of a user who requests to access an aggregated service;
  - locating, in a network-accessible registry, a service description document specifying a provisioning interface for the aggregated service, the aggregated service comprising an aggregation of a plurality of sub-services and the provisioning interface specifying how to invoke identity functions of the aggregated service;
  - analyzing the obtained credentials by invoking one or more of the identity functions, according to the specification thereof in the provisioning interface, to determine whether the user is authenticated for, and/or is authorized for, accessing the aggregated service; and

allowing the user to access the aggregated service only if the analyzing step has a successful result.

*Prior Art and Examiner's Rejection*

The Examiner relies upon the following reference as evidence of anticipation:

Liu                      6,839,680 B1              Jan. 4, 2005 (filed Sep. 30, 1999)

The Final Rejection from which Appellants appeal rejected all claims on appeal, claims 1 through 5, and 7 through 20 under 35 U.S.C. § 102(e) as being anticipated by Liu. At page 2 of the Answer, the Examiner withdrew the rejection of claims 3 through 5, 7 through 9, 11, and 15 through 20. Therefore, the only claims that remain for decision on appeal and remain rejected are claims 1, 2, 10, and 12 through 14.

*Claim Groupings*

Based on Appellants' arguments at pages 9 through 11 of the Brief, we will decide the appeal on the basis of independent claim 1 as representative of the subject matter of this claim, as well as independent claims 13 and 14.

ISSUES

Based upon the contentions between the Examiner and the Appellants derived from the Brief as well as the Answer, the pivotal issues before us relate to the alleged absence of teachings in Liu of aggregation of a plurality

of sub-services (Brief 3, 9) and the alleged absence of a provisioning interface which specifies identity functions (*id.* at 3, 11).

## FINDINGS OF FACT

1. In accordance with the showing in prior art Figure 1 and the discussion in the paragraph bridging pages 3 and 4 of the Specification, it was known in the art that network-accessible service providers “published” the availability of their services to a network-accessible registry, such as the service broker 120 in Figure 1. A given requester 150 binds a located service provider from this registry in order to directly use the service of the service provider 100.

2. To achieve the goals of web services, it was known in the art that certain core sets of standards or protocols existed in accordance with page 4, line 8 through page 5, and line 8 of the Specification.

3. Likewise, it was known in the art that prior art application integration of various web services occurred using these open standards, as discussed in the paragraph bridging pages 5 and 6 of the Specification. This integration required the interfacing to be described in various types of known documents and detail.

4. Conventionally, application services may require users to be authenticated and/or authorized before using the services in accordance with the description of the prior art in the paragraph bridging pages 6 and 7 of the Specification. Authentication included the notion of determining that a user is in fact who he purports to be and authorization determined what access privileges were available to a particular user to access a particular service.

5. Liu's Internet profiling system, as noted by the Examiner with respect to the Abstract, teaches aggregation of data into time dependent models describing web usage interests of users and groups of users over time. Pertinent figures include Figures 2 through 10. Aggregation services may be provided as to prospective users on a daily basis or over a period of time. The aggregation of a given user's web profile is in turn aggregated with respect to other users' profiles into user groups/categories and the like, etc. As the Examiner notes, Figure 2 shows this aggregation concept overall from the bottom of the figure to the top of it. The concept of aggregation as an overall service is also depicted in Figure 10 as heavily relied upon by the Examiner in the rejection of independent claims 1, 13, and 14.

6. Liu's overall aggregation service is labeled the so-called ProReach system where Figure 5 depicts the usage there of a firewall. Subsequent figures illustrate various dialogs and interfacing provisions using a firewall between the aggregation software in the ProReach system and individual user web sites/servers.

7. Column 6, line 39 through column 7, line 19 of the Summary of the Invention in Liu discuss individual visitors/user identification firewalls to include the ability of only authorized personnel to be given identity of an actual user/visitor. Coupled with the ability of the ProReach system to be flexible in its approach to aggregating user activities, the businesses which utilize the service are permitted to selectively tune the aggregation and therefore the authorization and authentication levels of various people to the profiling desired at a given point in time. This in part appears to be provided by the profile system 955 at the bottom left portion of Figure 10, which is discussed at column 40, beginning at line 39.

## PRINCIPLES OF LAW

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 begins with a determination of the scope of the claim. We determine the scope of the claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The properly interpreted claim must then be compared with the prior art.

## ANALYSIS

To the extent the Examiner is properly criticized by Appellants in the Brief as failing to specify a correlation of features of all claims that are on appeal to those features taught in Liu, to the extent the Examiner maintains the rejection as to claims 1, 2, 10, and 12 through 14, the Examiner properly expands upon and more completely explains the correlation of the features of these claims to the teachings in Liu on pages 5 through 10 of the Answer. Since no Reply Brief has been filed with respect to this appeal, the Examiner’s renewed positions of a prima facie case of anticipation as to the presently rejected claims remain unrebutted.

It is noted that independent claims 13 and 14 recite various means to perform given functions, thus apparently invoking 35 U.S.C. § 112, sixth paragraph. The appropriate Specification references for each means have been noted by Appellants at pages 6 and 7 of the Brief. Since no Reply Brief has been filed contesting the Examiner's correlation of the software-based features of Liu to the corresponding structure, acts and material recited in independent claims 13 and 14, the rejection of these claims is maintained as well. For these claims paragraph 22 at page 11 of the Brief also relies upon the arguments presented with respect to independent claim 1 on appeal, a non means-recitation claim, for analogous limitations and thus corresponding arguments. Thus, there appears to be no basis for a preference to be shown the subject matter of independent claims 13 and 14 over the features that the Examiner has correlated to claim 1 from Liu.

It is gainsaid that apparently the subject matter of independent claim 1 on appeal has been admitted to be in the prior art according to Findings of Fact 1 through 4 outlined earlier in this opinion. These include the use of the prior art registry, the use of various protocols disclosed in this application to effect the transfer of various dialogs/documents/provisioning interfaces between websites to effect an application integration, all overshadowed by the use of prior art authentication and authorization features.

As to Liu's actual teachings, Findings of Fact 5 through 7 are consistent with the Examiner's detailed correspondence between the claimed subject matter represented in independent claim 1 on appeal and the features argued not to be present in this reference, including the aggregation of a plurality of sub-services and the alleged absence of a provisioning interface



which provides specific identity functions of authentication and authorization that comprise the two major issues in this appeal.

Although the Examiner's approach to setting forth the rejections in this application appears to be unconventional at best, based upon the weight of the arguments and evidence before us, we conclude that the Examiner has established an un rebutted prima facie case of anticipation of the subject matter of the presently rejected claims 1, 2, 10, and 12 through 14.

### CONCLUSIONS OF LAW

1. Appellants have not shown that the Examiner erred in finding that Liu teaches aggregation services that aggregate a plurality of sub-services.

2. Appellants have also not shown that the Examiner erred in finding that Liu teaches a provisioning interface that specifies identity functions of authentication and authorization.

DECISION

The Examiner's rejection of claims 1, 2, 10, and 12 through 14 as being anticipated under 35 U.S.C. § 102(e) by Liu is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

msc

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